

138 FERC ¶ 61,232
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Philip D. Moeller, John R. Norris,
and Cheryl A. LaFleur.

Calpine Mid Merit, LLC

Docket No. ER12-954-000

ORDER ACCEPTING AND SUSPENDING PROPOSED RATE SCHEDULE AND
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued March 30, 2012)

1. In this order, we accept for filing Calpine Mid Merit, LLC's (Calpine Mid Merit)¹ proposed rate schedule for Reactive Supply and Voltage Control from Generation Sources Service (Reactive Power) to PJM Interconnection, L.L.C. (PJM) and suspend it for a nominal period, to become effective March 1, 2012, as requested, subject to refund. We also establish hearing and settlement judge procedures.

Background

2. On January 31, 2012, Calpine Mid Merit filed a rate schedule that sets forth the cost-based revenue requirement for supplying reactive power under Schedule 2 of the PJM Open Access Transmission Tariff (OATT) from its 575 MW dual fuel combined cycle electric generating facility located in Peach Bottom Township, Pennsylvania. Calpine Mid Merit is interconnected to the PECO Energy Company (PECO) transmission system and operates in the PJM control area. PECO is a transmission owner member in PJM and has transferred operational control of its facilities to PJM. PJM is responsible

¹ Calpine Mid Merit is an exempt wholesale generator (EWG) with market-based rates authority. See *Calpine Mid Merit, Inc.*, 102 FERC ¶ 62,132 (2003) (granting EWG status); *Conectiv Mid Merit, Calpine Mid Merit, LLC et al.*, Docket No. ER10-2048-000, *et al.* (Sept. 9, 2010) (delegated letter order) (accepting Notice of Succession).

for paying Calpine Mid Merit the reactive power charges under Schedule 2 of the PJM OATT.²

3. Calpine Mid Merit states that it is making this filing pursuant to an Interconnection Agreement (IA) between Calpine Mid Merit and PECO that requires Calpine Mid Merit to supply reactive power to PECO's system.

4. Calpine Mid Merit asserts that the proposed rate schedule consists of a revenue requirement made of two components: (1) a fixed cost attributable to reactive power production capability (Fixed Capability Component) and (2) a heating loss component, which includes the increased generator and step-up transformer heating losses that result from the production of reactive power (Heating Loss Component).³

5. In support of its filing, Calpine Mid Merit states that it has calculated the Fixed Capability Component by determining the portion of the unit's generation/excitation system and the generator step-up transformers used to produce reactive power in accordance with the AEP methodology.⁴ Calpine Mid Merit states the Heating Loss Component includes losses that occur from resistive heating associated with armature winding and field winding of the generator, and of increased eddy currents in the generator and associated step-up transformer. Calpine Mid Merit maintains these losses are calculated as the real power consumed to produce reactive power, and therefore constitute a cost that is directly attributable to the production of reactive power. Calpine Mid Merit states that it used proxy data, including a proxy cost structure and rate of return, to calculate both the Fixed Capability Component and the Heating Loss Component.

Notice of Filing and Responsive Pleadings

6. Notice of Calpine Mid Merit's filing was published in the *Federal Register*, 77 Fed. Reg. 6,553 (2012), with interventions and protests due on or before February 21, 2012. PJM and Exelon Corporation (Exelon) filed timely motions to intervene. On

² Schedule 2, PJM OATT at 520-522 states that PJM "shall pay each [g]eneration or other source [o]wner an amount equal to the [g]eneration or other source [o]wner's monthly revenue requirement as accepted or approved by the Commission."

³ A third component Lost Opportunity Cost is provided for in Section 3.2.3B of Schedule 1 of PJM's Amended and Restated Operating Agreement.

⁴ See *Am. Elec. Power Serv. Corp.*, 88 FERC ¶ 61,141 (1999), *order on reh'g*, 92 FERC ¶ 61,001 (2000).

February 21, 2012 Exelon filed a protest. On March 7, 2012 Calpine Mid Merit filed an answer to Exelon's protest.

7. Exelon protests all aspects of Calpine Mid Merit's proposed rate and asserts that Calpine Mid Merit has failed to establish that its cost-based reactive revenue requirement is just and reasonable. Exelon asserts that Calpine Mid Merit's proposed rate of return is improper, because Calpine Mid Merit has failed to show that its use of a proxy return on equity and overall rate of return based on the capital structure of PECO is appropriate. Exelon also asserts that Calpine has failed to demonstrate that the cost data underlying its proposed rates are just and reasonable. In particular, Exelon states that Calpine does not present the cost data in conformance with the Uniform System of Accounts, provides no detailed breakdown or support for certain claimed expenses, overstates certain losses, and provides an incorrectly calculated power factor for certain generators. Consequently, Exelon asserts, there are material issues of fact that cannot be resolved without an evidentiary hearing. Exelon requests that the Commission institute hearing procedures with respect to all aspects of the filing. Further, Exelon requests the Commission suspend the rate for five months and establish a settlement process to develop the facts and allow for the parties to reach a negotiated agreement on a just and reasonable rate.

8. In response to Exelon's protest, Calpine Mid Merit asserts that Exelon has not raised any issue of material fact that warrants further exploration and has failed to justify its request for the maximum statutory suspension period. Calpine Mid Merit asserts that Exelon's claims that Calpine Mid Merit has not supported its use of proxy data and that Calpine Mid Merit has improperly presented its cost data are unsubstantiated and contrary to Commission precedent. Calpine Mid Merit also asserts that its calculation of the reactive power allocation factor will have a negligible effect on the annual revenue requirement. Calpine Mid Merit states it would be harmed if the Commission orders a five month suspension and requests the Commission permit the rate schedule to become effective without modification or suspension.

Discussion

Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2011), the unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Calpine Mid Merit's answer because it has provided information that assisted us in our decision-making process.

Hearing and Settlement Judge Procedures

10. Calpine Mid Merit's proposed rate schedule raises issues of material fact, for example, but not limited to, its cost estimates, which cannot be resolved based on the record before us, and which are more appropriately addressed in the hearing and settlement judge procedures ordered below.⁵

11. Our preliminary analysis indicates that Calpine Mid Merit's proposed rate schedule has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept Calpine Mid Merit's proposed rate schedule for filing, suspend it for a nominal period, to become effective March 1, 2012, subject to refund, and set it for hearing and settlement judge procedures.

12. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.⁷ The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) Calpine Mid Merit's proposed rate schedule for reactive power and voltage control service is hereby accepted for filing and suspended for a nominal period, to

⁵ See *supra* P 7 (cost estimates).

⁶ 18 C.F.R. § 385.603 (2011).

⁷ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

become effective March 1, 2012, as requested, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning Calpine Mid Merit's proposed rate schedule for reactive power and voltage control services. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2005), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish

procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.